

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH DAKOTA**

IN RE:)
)
AARON RICHARD BOE)
SSN/ITIN XXX-XX-0047)
)
and)
)
WENDY ANITA BOE)
SSN/ITIN XXX-XX-3332,)
)
Debtors.)
)
LEE ANN PIERCE, TRUSTEE)
)
Plaintiff)
)
-vs-)
)
SIOUX FALLS FEDERAL CREDIT)
UNION)
)
Defendant.)

Bankr. No. 10-40498
Chapter 7

Adversary No. 10-4034

**ANSWER TO COMPLAINT TO
DETERMINE VALIDITY OF LIEN**

Comes now the Defendant Sioux Falls Federal Credit Union, by and through undersigned counsel, and for its Answer, states and alleges as follows:

1. Plaintiff's Complaint fails to state a claim upon which relief may be properly granted.
2. Defendant denies each and every allegation, matter and claim of Plaintiff, except for those matters which are herein specifically admitted or qualified herein and remits Plaintiff to strict proof thereof.
3. Upon information and belief and with the reservation that any admissions or denials herein may be withdrawn or modified in the event further acts presently unknown to Defendant are discovered, Defendant admits Paragraphs 1, 2, 3, 4, 5 and 6 of the Plaintiff's Complaint.
4. That Defendant Sioux Falls Federal Credit Union's lien has appeared on the face of the title to Debtor's 2008 Dodge Nitro since the title was first issued to Debtor Aaron R. Boe on December 16, 2009, as appears from the Certificate of Title attached hereto as Exhibit A, one hundred seventy-seven days prior to the Debtor's Chapter 7 filing in this matter.
5. That South Dakota law, at SDCL 32-3-41 provides that "A security interest, ...if a notation of same has been made...on the face thereof...shall be valid against the creditors of the debtor...and other lien holders or claimants...."

WHEREFORE, Defendant Sioux Falls Federal Credit Union respectfully prays for judgment as follows:

1. That Plaintiff's Complaint be dismissed upon the merits and with prejudice;
2. That Defendant be awarded all of its costs and disbursements in this action, including reasonable attorney's fees; and
3. For such other and further relief as the Court deems appropriate.

Dated at Sioux Falls, South Dakota this 8th day of September, 2010.

MYERS & BILLION, LLP

By: 

James R. Myers, P.C.
Attorneys for Defendant
300 N. Dakota Ave., Suite 510
P.O. Box 1085
Sioux Falls, SD 57101-1085

EXHIBIT

A

VEHICLE

TITLE NO 093450072 100710174	DATE 12/16/2009	TYPE TRANSFER	PREVIOUS STATE BRAND	TAX CODE 34MT 314.63	WEIGHT CC 4051
YEAR MAKE 2008 DODGE	MODEL NITRO	BODY SUV	VEHICLE IDENTIFICATION NUMBER 1D8GJ58K08W145328		

MAIL TO: AARON R BOE
1205 E 62ND STREET
SIOUX FALLS SD 57108

ODOMETER
83652 ACTUAL

FRONT

OWNER(S): AARON R BOE

OWNER ADDRESS: 1205 E 62ND STREET
SIOUX FALLS SD 57108

FIRST LENDER: SIOUX FALLS FEDERAL CREDIT UNION
PO BOX 5735
SIOUX FALLS SD 57117-5735

NOTED BY

COUNTY TREASURER

CO. #

DATE

RELEASED BY

COUNTY TREASURER

CO. #

DATE

SECOND LENDER

NOTED BY

COUNTY TREASURER

CO. #

DATE

RELEASED BY

COUNTY TREASURER

CO. #

DATE



THE COMPLETION OF SERVICE AND REGISTRATION UNDER SOUTH DAKOTA LAW CERTIFIES THAT THE PERSONS NAMED HEREON ARE DULY REGISTERED IN THIS OFFICE AS OWNERS OF THE DESCRIBED PROPERTY SUBJECT TO ANY LENS AND ENCUMBRANCES HEREON SET FORTH SOUTH DAKOTA LAW. REQUIRED PROVISIONS OF DAMAGE ON MOTOR VEHICLES AND BOATS. DAMAGE INFORMATION IS AVAILABLE UPON WRITTEN REQUEST NEXT TO THE DEPARTMENT OF REVENUE AND REGULATION, DIVISION OF MOTOR VEHICLES, 448 EAST CAPITOL AVENUE, PIERRE, SD 57501.

SECRETARY, *Paul Kim*
DEPARTMENT OF REVENUE AND REGULATION

10300 091216 133035

CONTROL NO 0541921

TRANSFER OR REPOSITION		CHECK IF APPLICABLE		CHECK IF APPLICABLE	
<input type="checkbox"/> TRANSFER <input type="checkbox"/> REPOSITION		<input type="checkbox"/> VEHICLE IS BEING USED FOR BUSINESS PURPOSES <input type="checkbox"/> VEHICLE IS BEING USED FOR BUSINESS PURPOSES <input type="checkbox"/> VEHICLE IS BEING USED FOR BUSINESS PURPOSES		<input type="checkbox"/> VEHICLE IS BEING USED FOR BUSINESS PURPOSES <input type="checkbox"/> VEHICLE IS BEING USED FOR BUSINESS PURPOSES <input type="checkbox"/> VEHICLE IS BEING USED FOR BUSINESS PURPOSES	
Name (Last, First, Middle), Description of type of ownership (Joint, or, Sole, or, Partnership, or, Trust, or, Other)				Date of Birth	
Signature of Owner				Date of Signature	
Current Owner's License				SD Driver's License No. or Social Security No.	
1205 E. 1st St. South Falls SD 5708				City State Zip Code	
Former Address				City State Zip Code	
Former Name				Address	
City State Zip Code				<input type="checkbox"/> Not to be checked if not checked, will be mailed to owner	
ODOMETER: Complete if vehicle is less than 10 years old, and weighs less than 10,000 pounds GVWR.				DAMAGE: Complete if vehicle is less than 7 years old, and weighs less than 10,000 pounds GVWR.	
Odometer reading is 85,000. Vehicle is a pickup truck, which is a motor vehicle, which is a motor vehicle, which is a motor vehicle.				Damage - Total Loss: With this vehicle destroyed to be a total loss, I certify that I am not a motor vehicle, which is a motor vehicle, which is a motor vehicle.	
<input type="checkbox"/> Stated mileage exceeds odometer's mechanical limit, or				1. The vehicle's estimated damage is more than \$5,000 to any single occurrence while I have owned the vehicle.	
<input type="checkbox"/> Stated mileage is not the actual mileage - (Mileage discrepancy)				2. At the time I acquired the vehicle, the vehicle's estimated damage in excess of \$5,000 to any single occurrence while I have owned the vehicle.	
Date of Sale				Buyer's Name	
Buyer's Name				Buyer's Address	
Buyer's Address				Buyer's City State Zip Code	
Buyer's Signature				Buyer's Date	
Buyer's License No. or Social Security No.				Buyer's City State Zip Code	
Buyer's Address				Buyer's City State Zip Code	
Buyer's Signature				Buyer's Date	
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LEE ANN PIERCE, TRUSTEE)	CERTIFICATE OF SERVICE
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Plaintiff)	
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-vs-)	
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SIOUX FALLS FEDERAL CREDIT)	
UNION)	
)	
Defendant.)	

The undersigned hereby certifies that a true and correct copy of the **ANSWER TO COMPLAINT TO DETERMINE VALIDITY OF LIEN** in the above-entitled action was served upon the following persons on the 9th day of September, 2010:

Lee Ann Pierce	Laura L. Kulm Ask	Bruce J. Gehring
Chapter 7 Bankruptcy Trustee	Gerry & Kulm Ask, Prof LLC	314 S. Main, Ste 303
PO Box 524	PO Box 966	Sioux Falls, SD 57104
Brookings, SD 57006-0524	Sioux Falls, SD 57101-0966	
Wendy Anita Boe	Aaron Richard Boe	
1205 E. 62 nd St.	1205 E. 62 nd St.	
Sioux Falls, SD 57108-4764	Sioux Falls, SD 57108-4764	

Service was made by United States mail, postage prepaid, directed to the address of record to anyone who was not served electronically by the United States Bankruptcy Clerk of Courts.

MYERS & BILLION, LLP

By: 

James R. Myers, P.C.
Attorneys for Defendant
300 N. Dakota Ave., Suite 510
Sioux Falls, SD 57101-1085